

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

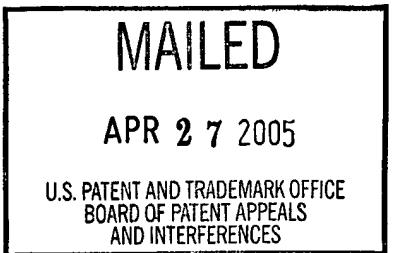
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HOWARD LEE

Appeal No. 2005-1000
Application 09/932,629

ON BRIEF



Before McQUADE, NASE, and BAHR, Administrative Patent Judges,
McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Howard Lee appeals from the final rejection (mailed February 12, 2004) of claim 1, the sole claim pending in the application.¹

THE INVENTION

The invention relates to a screwdriver system which is defined in claim 1 as follows:

1. A system for fastening purposes comprising, in combination:

a shaft fabricated of a rigid metallic material in a cylindrical configuration with an axis and having a

¹Claim 1 has been amended subsequent to final rejection.

handle end and a working end, the shaft having a working inner portion and a working outer portion and with a square flat cut face on the outermost extent of the working end perpendicular to the axis of the shaft, the working outer portion having a generally cube-shaped configuration with a square cross section and an axial length of a first smaller size adjacent to the face, the working outer portion having four rectangular faces all in contact with and perpendicular to the square flat cut face of the shaft, the working inner portion having a generally cube-shaped configuration with a square cross section and an axial length of a second larger size adjacent to the working outer portion, with a bevel adjacent to the working inner portion remote from the square flat cut face;

a screwdriver handle having a shaft end and a gripping surface end, the shaft end having a generally cylindrical recess to securely receive and retain in one position the handle end of the shaft and with the gripping surface end having a plurality of axial indentations to facilitate the user's grip of the system; and

a threaded fastener having a threaded portion and a head portion, the threaded portion having threads for coupling to a recipient surface upon rotation and with the head portion having a cylindrical configuration with a central stepped recess, the stepped recess having a cube-shaped interior reception area and a cube-shaped exterior reception area with the interior reception area being smaller than the exterior reception area, the interior reception area including a square flat cut face and four rectangular faces all in contact with and perpendicular to the square flat cut face of the interior reception area, the interior reception area adapted to snugly receive the working outer portion of the shaft and with the exterior reception area adapted to snugly receive the working inner portion of the shaft and alternatively, wherein the threaded fastener is of a smaller size, the working outer portion is snugly receivable by the exterior reception area of the threaded fastener.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

| | | |
|---------|-----------|---------------|
| Parsons | 3,888,144 | June 10, 1975 |
| Rocca | 4,448,097 | May 15, 1984 |

THE REJECTION

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Parsons and Rocca.

Attention is directed to the main and reply briefs (filed July 29, 2004 and November 29, 2004) and answer (mailed September 24, 2004) for the respective positions of the appellant and examiner regarding the merits of this rejection.²

DISCUSSION

Parsons discloses a screw driver 2 comprising an elongated shank 4, a handle 6 on the upper end of the shank and a screw-engaging bit 8 on the lower end of the shank. The bit illustrated in Figures 1 through 3 includes a first portion 10 directly adjacent to and coaxial with the lower end of the shank and having a uniform square cross-section, a second portion 12

² In the final rejection, claim 1 also stood rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. As a result of the later amendment of the claim (see n.1, supra), the examiner has withdrawn this rejection.

extending coaxially from the first portion 10 and having a smaller uniform square cross-section, and a pilot portion 14 extending coaxially from the second portion and tapering to a point. Figures 3 and 4 show a screw 16 having a complementary recess or socket 22 for snugly receiving the foregoing screwdriver bit. Figures 5 through 7 and Figures 8 through 19 respectively illustrate alternative bits and screw sockets which differ significantly with respect to those shown in Figures 1 through 4, with the bit shown in Figure 6 appearing to have a flat distal face.

Rocca discloses a driver tool having a plurality of selectively usable driving bits. The tool 10 comprises an outer shaft 12, a handle 29 on the upper end of the shaft, a sleeve 16 removably fitted within the outer shaft and extending from the lower end thereof, tubes 98 and 100 removably fitted within the sleeve and a pair of bit units 82, 84, 86 and 88 removably mounted in each tube, with each bit unit embodying a bit 70, 72, 74, 76, 78, 79, 80 and 81 on each of its ends. The tubes and bit units may be arranged within the sleeve such that a selected bit projects from the bottom of the tool.

Notwithstanding the examiner's conclusion to the contrary, the combined teachings of Parsons and Rocca would not have

suggested the subject matter recited in claim 1.

As indicated above, the claim calls for (1) a cylindrical shaft having a square cut flat face on the outermost extent of its working end, a working outer portion adjacent the face having a generally cube-shaped configuration with a square cross section, and a working inner portion having a generally cube-shaped configuration with a square cross section, and (2) a threaded fastener having a central stepped recess including a cube-shaped exterior reception area adapted to snugly receive the working inner portion of the shaft and a smaller cube-shaped interior reception area adapted to snugly receive the working outer portion of the shaft, with the interior reception area including a square flat cut face and four rectangular faces in contact with and perpendicular to the square flat cut face. The underlying specification (e.g., see page 11) indicates that these features are advantageous for the reasons spelled out at the end of claim 1: "wherein the threaded fastener is of a smaller size, the working outer portion is snugly receivable by the exterior reception area of the threaded fastener."

Implicitly conceding that Parsons and Rocca do not disclose the above noted structure recited in claim 1, the examiner nonetheless concludes that same would have been obvious from a

Appeal No. 2005-1000
Application 09/932,629

collective consideration of the bits and screw recesses disclosed by Parsons in Figures 1 through 4 and Figures 5 through 7, respectively, because "[c]learly one skilled in the art would know that Parsons contemplates the use of either a pointed or flat end face, thus the claimed limitation is clearly shown in Parsons" (answer, page 5). Parsons, however, contains no teaching or suggestion to selectively combine the two embodiments so as to arrive at the recited structure in question. As this evidentiary deficiency in Parsons finds no cure in Rocca, it is evident that the only suggestion for combining the two references to produce the subject matter recited in claim 1 stems from hindsight knowledge impermissibly derived from the appellant's disclosure.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claim 1 as being unpatentable over Parsons and Rocca.

Appeal No. 2005-1000
Application 09/932,629

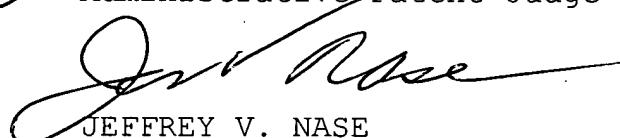
SUMMARY

The decision of the examiner to reject claim 1 is reversed.

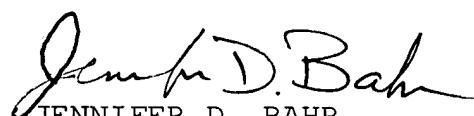
REVERSED



JOHN P. MCQUADE
Administrative Patent Judge



JEFFREY V. NASE
Administrative Patent Judge



JENNIFER D. BAHR
Administrative Patent Judge

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Appeal No. 2005-1000
Application 09/932, 629

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